

STATISTICAL INFORMATION ONLY: Debtor must select the number of each of the following items included in the Plan.

0 Valuation of Security **0** Assumption of Executory Contract or Unexpired Lease **3** Lien Avoidance

Last Revised December 1, 2017

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

IN RE:

Case No. **3:16-bk-25565**

Judge _____

Monticello, Darryl B.

Debtor(s)

CHAPTER 13 PLAN AND MOTIONS

☐ Original

☒ Modified/Notice Required

Date: **January 18, 2018**

☒ Motions Included

☐ Modified/No Notice Required

THE DEBTOR HAS FILED FOR RELIEF UNDER
CHAPTER 13 OF THE BANKRUPTCY CODE

YOUR RIGHTS MAY BE AFFECTED

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated. This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice. The Court may confirm this plan, if there are no timely filed objections, without further notice. See Bankruptcy Rule 3015. If this plan includes motions to avoid or modify a lien, the lien avoidance or modification may take place solely within the chapter 13 confirmation process. The plan confirmation order alone will avoid or modify the lien. The debtor need not file a separate motion or adversary proceeding to avoid or modify a lien based on value of the collateral or to reduce the interest rate. An affected lien creditor who wishes to contest said treatment must file a timely objection and appear at the confirmation hearing to prosecute same.

THIS PLAN:

☐ DOES ☒ DOES NOT CONTAIN NON-STANDARD PROVISIONS. NON-STANDARD PROVISIONS MUST ALSO BE SET FORTH IN PART 10.

☐ DOES ☒ DOES NOT LIMIT THE AMOUNT OF A SECURED CLAIM BASED SOLELY ON VALUE OF COLLATERAL, WHICH MAY RESULT IN A PARTIAL PAYMENT OR NO PAYMENT AT ALL TO THE SECURED CREDITOR. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

☒ DOES ☐ DOES NOT AVOID A JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

Initial Debtor(s)' Attorney: **MC**

Initial Debtor: **DBM**

Initial Co-Debtor:

Part 1: Payment and Length of Plan

- a. The debtor has paid **\$5,734.00** to date and then shall pay \$ **413.00** per month to the Chapter 13 Trustee, starting on 2/01/2018 for approximately 18 months..
- b. The Debtor shall make plan payments to the Trustee from the following sources:
☒ Future Earnings
☐ Other sources of funding (describe source, amount and date when funds are available):
- c. Use of real property to satisfy plan obligations:
☐ Sale of real property
 Description:
 Proposed date for completion: _____
☐ Refinance of real property
 Description:
 Proposed date for completion: _____
☐ Loan modification with respect to mortgage encumbering property
 Description:
 Proposed date for completion: _____
- d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.
- e. ☐ Other information that may be important relating to the payment and length of plan:

Part 2: Adequate Protection ☒ NONE

- a. Adequate protection payments will be made in the amount of \$ **None** to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to _____ (creditor).
- b. Adequate protection payments will be made in the amount of \$ _____ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to _____ (creditor).

Part 3: Priority Claims (Including Administrative Expenses)

- a. All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
Capone & Keefe, PC	Administrative Expense	1,750.00

- b. Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:

Check one:

☒ None

☐ The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim pursuant to 11 U.S.C.1322(a)(4):

Creditor	Type of Priority	Claim Amount	Amount to be Paid
None			

Part 4: Secured Claims

a. Curing Default and Maintaining Payments on Principal Residence: [] NONE

The Debtor shall pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
Bank of America Home Loans	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1,243.25	0.00%	1,243.25	3,729.00
Point Pleasant Beach Borough	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1,957.32	0.00%	1,957.32	0.00
US Bank Cust for PC5 Sterling	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	374.98	18.00%	457.78	0.00

b. Curing and Maintaining Payments on Non-Principal Residence & other loans or rent arrears: [X] NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor will pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
None					

c. Secured claims excluded from 11 U.S.C. 506: [] NONE

The following claims were either incurred within 910 days before the petition date and are secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or incurred within one year of the petition date and secured by a purchase money security interest in any other thing of value:

Name of Creditor	Collateral	Interest Rate	Amount of Claim	Total to be Paid through the Plan Including Interest Calculation

d. Requests for valuation of security, Cram-down, Strip Off & Interest Rate Adjustments [] NONE

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

NOTE: A modification under this section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid

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302-304 Hawthorne Avenue, LLC	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1.00	461,000.00	461,000.00	0.00	0.00%	0.00
Beaton Brothers Flooring Co.	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1.00	461,000.00	461,000.00	0.00	0.00%	0.00
Four Seasons Insulation Corp.	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1.00	461,000.00	461,000.00	0.00	0.00%	0.00

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

e. Surrender ☒ NONE

Upon confirmation, the stay is terminated as to surrendered collateral only under 11 U.S.C. 362(a) and that the stay under 11 U.S.C 1301 be terminated in all respects. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
None			

f. Secured Claims Unaffected by the Plan ☐ NONE

The following secured claims are unaffected by the Plan:

Ally Financial

g. Secured Claims to Be Paid in Full Through the Plan ☐ NONE

Creditor	Collateral	Total Amount to be Paid through the Plan
US Bank Cust for PC5 Sterling	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	457.78

Part 5: Unsecured Claims ☐ NONE

a. Not separately classified allowed non-priority unsecured claims shall be paid:

Not less than \$ _____ to be distributed *pro rata*

Not less than _____ percent

☒ *Pro Rata* distribution from any remaining funds

b. Separately Classified Unsecured Claims shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid
None			

Part 6: Executory Contracts and Unexpired Leases ☒ NONE

(NOTE: See time limitations set forth in 11 U.S.C. 365(d)(4) that may prevent assumption of non-residential real property leases in this Plan.)

All executory contracts and unexpired leases, not previously rejected by operation of law, are rejected, except the following, which are assumed:

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Creditor	Arrears to be Cured in Plan	Nature of Contract or Lease	Treatment by Debtor	Post-Petition Payment
None				

Part 7: Motions

NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, Notice of Chapter 13 Plan Transmittal, within the time and in the manner set forth in D.N.J. LBR 3015-1. A Certification of Service, Notice of Chapter 13 Plan Transmittal and valuation must be filed with the Clerk of Court when the plan and transmittal notice are served.

a. Motion to Avoid Liens under 11 U.S.C. Section 522(f). [] NONE

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided
None							

b. Motion to Void Liens and Reclassify Claim from Secured to Completely Unsecured. [] NONE

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Total Amount of Lien to be Reclassified
302-304 Hawthorne Avenue, LLC	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1.00	461,000.00	461,000.00	0.00	0.00
Beaton Brothers Flooring Co.	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1.00	461,000.00	461,000.00	0.00	0.00
Four Seasons Insulation Corp.	419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102	1.00	461,000.00	461,000.00	0.00	0.00

c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured. [X] NONE

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured
None					

Part 8: Other Plan Provisions**a. Vesting of Property of the Estate**

☒ Upon Confirmation
☐ Upon Discharge

b. Payment Notices

Creditors and Lessors provided for in Sections 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

c. Order of Distribution

The Trustee shall pay allowed claims in the following order:

- 1) **Trustee Commissions**
- 2) **Other Administrative Claims**
- 3) **Secured Claims**
- 4) **Lease Arrearages**
- 5) **Priority Claims**
- 6) **General Unsecured Claims**

d. Post-petition claims The Trustee ☐ is, ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

Part 9: Modification ☐ NONE

If this plan modifies a plan previously filed in this case, complete the information below.

Date of Plan being modified: 8/03/2017

Explain below why the Plan is being modified.	Explain below how the Plan is being modified.
Debtor received a Loan Modification. Plan is to remove the arrears from the plan, but for what has already been paid to Select Portfolio through the plan.	

Are Schedules I and J being filed simultaneously with this Modified Plan? ☐ Yes ☒ No

Part 10: Non-Standard Provision(s): Signatures Required

Non-Standard Provisions Requiring Separate Signatures:

☒ NONE

☐ Explain here:

Any non-standard provisions placed elsewhere in this plan are void.

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Certification.

I certify under penalty of perjury that the plan contains no non-standard provisions other than those set forth in this final paragraph.

Date: January 18, 2018

/s/ Marc Capone

Attorney for the Debtor

Date: January 18, 2018

/s/ Darryl Monticello

Debtor

Date:

Joint Debtor

Signatures

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Plan.

Date: **January 18, 2018**

/s/ Marc Capone

Attorney for the Debtor

I certify under penalty of perjury that the above is true.

Date: **January 18, 2018**

/s/ Darryl Monticello

Debtor

Date: **January 18, 2018**

Joint Debtor

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 United States Bankruptcy Court
 District of New Jersey

In re:
 Darryl B. Monticello
 Debtor

Case No. 16-25565-KCF
 Chapter 13

CERTIFICATE OF NOTICE

District/off: 0312-3

User: admin
 Form ID: pdf901

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 Total Noticed: 24

Date Rcvd: Feb 08, 2018

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Feb 10, 2018.

db
 516368592 Darryl B. Monticello, 419 Arbutus Dr, Point Pleasant Beach, NJ 08742-3102
 +302-304 Hawthorne Avenue, LLC, c/o Kathleen R. Wall, Esq., 2640 Highway 70, Suite 9A,
 PO Box A, Manasquan, NJ 08736-0631
 516339019 Bank of America Home Loans, PO Box 5170, Simi Valley, CA 93062-5170
 516339020 Beaton Brothers Flooring Co., c/o Donna Thompson, Esq., 469 Herbertsville Rd,
 Brick, NJ 08724-1309
 516339021 Capital One, PO Box 30285, Salt Lake City, UT 84130-0285
 516410722 Capital One Bank (USA), N.A., PO Box 71083, Charlotte, NC 28272-1083
 516339022 First Premier Bank, 601 S Minneaplois Ave, Dious FDalls, SD 57104
 516339023 Four Seasons Insulation Corp., 260 E Main St, Tuckerton, NJ 08087-2600
 516339024 Kathleen Wall, Esq., PO Box A, Manasquan, NJ 08736-0631
 516339025 Pluese, Becker & Saltzman, 2000 Horizon Way Ste 900, Mount Laurel, NJ 08054-4303
 516339026 Point Pleasant Beach Borough, 416 New Jersey Ave, Point Pleasant Beach, NJ 08742-3330
 516519664 THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YO, Bank of America, PO Box 31785,
 Tampa, FL 33631-3785
 517063022 +The Bank of New York Mellon, P.O. Box 65450, Salt Lake City, UT 84165,
 The Bank of New York Mellon, P.O. Box 65450, Salt Lake City, UT 84165-0450
 517063021 The Bank of New York Mellon, P.O. Box 65450, Salt Lake City, UT 84165
 516339027 US Bank Cust for PC5 Sterling, 50 S 16th St Ste 2050, Philadelphia, PA 19102-2516
 516339028 Wells Fargo Bank Card, PO Box 10438, Des Moines, IA 50306-0438
 516548005 Wells Fargo Bank, N.A., Wells Fargo Card Services, PO Box 10438, MAC F8235-02F,
 Des Moines, IA 50306-0438

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

smg E-mail/Text: usanj.njbankr@usdoj.gov Feb 08 2018 22:27:00 U.S. Attorney, 970 Broad St.,
 Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534
 smg +E-mail/Text: ustpreion03.ne.ecf@usdoj.gov Feb 08 2018 22:26:57 United States Trustee,
 Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100,
 Newark, NJ 07102-5235
 cr E-mail/Text: ally@ebn.phinsolutions.com Feb 08 2018 22:26:26 Ally Capital,
 serviced by Ally Servicing LLC, PO Box 130424, Roseville, MN 55113-0004
 cr E-mail/Text: ally@ebn.phinsolutions.com Feb 08 2018 22:26:26 Ally Servicing LLC,
 P.O. Box 130424, Roseville, MN 55113-0004
 516428483 E-mail/Text: ally@ebn.phinsolutions.com Feb 08 2018 22:26:26 Ally Capital, PO Box 130424,
 Roseville MN 55113-0004
 516339018 E-mail/Text: ally@ebn.phinsolutions.com Feb 08 2018 22:26:26 Ally Financial,
 PO Box 380901, Bloomington, MN 55438-0901
 516514792 +E-mail/Text: JCAP_BNC_Notices@jcap.com Feb 08 2018 22:27:10 Premier Bankcard, Llc,
 c o Jefferson Capital Systems LLC, Po Box 7999, Saint Cloud Mn 56302-7999
 TOTAL: 7

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Feb 10, 2018

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on February 6, 2018 at the address(es) listed below:

Albert Russo docs@russotrustee.com

Denise E. Carlson on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK,
 SOLELY AS TRUSTEE HEREUNDER AND NOT IN ITS INDIVIDUAL CAPACITY FOR THE BENEFIT OF THE
 CERTIFICATEHOLDERS OF THE CWABS INC., ASSET-BACKED CERTIFICAT dcarlon@kmlawgroup.com,
 bkgroup@kmlawgroup.com

District/off: 0312-3

User: admin
Form ID: pdf901

Page 2 of 2
Total Noticed: 24

Date Rcvd: Feb 08, 2018

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)
system (continued)

John R. Morton, Jr. on behalf of Creditor Ally Servicing LLC ecfmail@mortoncraig.com,
mortoncraigecf@gmail.com

John R. Morton, Jr. on behalf of Creditor Ally Capital ecfmail@mortoncraig.com,
mortoncraigecf@gmail.com

Marc C. Capone on behalf of Debtor Darryl B. Monticello mcapone@caponeandkeefe.com,
docs@caponeandkeefe.com

Rebecca Ann Solarz on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK,
SOLELY AS TRUSTEE HEREUNDER AND NOT IN ITS INDIVIDUAL CAPACITY FOR THE BENEFIT OF THE
CERTIFICATEHOLDERS OF THE CWABS INC., ASSET-BACKED CERTIFICAT rsolarz@kmlawgroup.com
TOTAL: 6